UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
VAUGHAN, MICHAEL R

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 May 2009_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _21-40_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _21-40_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _22 April 2009_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **5/12/09** has been entered. The amendments and remarks filed on 4/22/09 have been considered.

Claims 21, 26, 29, 33, and 39 have been amended. Claims 21-40 are pending and have been examined.

Response to Amendment

Drawings

The currently filed drawings are accepted.

Response to Arguments

Applicant's arguments filed 4/22/09 have been fully considered but they are not persuasive. The main issue of concern is the interpretation of the main application. Applicant has entered the new limitation requiring the claimed invention selectively activating or deactivating additional applications of the device while maintaining the main application's connection <u>to the network</u> (emphasis added). For the time being, Examiner agrees that the main application of a cell phone as taught by Parker is the programming which implements a "calling function" to the network. Examiner asserts first of all that the independent claims at least, do not disclose a cell phone, merely a broadly interpreted "equipment". Nonetheless assuming, arguendo, that the claims deal with a cell phone, Examiner still finds the Parker reference to teach the newly added limitation. The new limitation only requires that when the additional applications are activated/deactivated that the main application is left active for connection of the equipment to the network. The emergency mode of Parker still covers this teaching (col. 11, line 1-5). The main application of the phone, the calling application, still allows for connection of the phone to the network. The main calling application may get restricted when the other applications are deactivated, but nevertheless, it is still able to connect the phone to the network. The main application whereby a user inputs a number and selects send, would still connect the phone to an emergency dispatcher on the network, thus completing a call from a user to another on the network all the while the rest of the phone's capabilities have been locked. Therefore, Examiner must maintain the previous rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-36 and 38-40 are rejected under 35 U.S.C. 102(b) as being

anticipated by USP 5,864,757 to Parker.

As per claim 21, Parker teaches a method for managing the security of

applications with a security module functioning in an equipment connected to a network,

said network being managed by a control server of an operator, said applications using

resources as data or functions stored in a security module [SIM] locally connected to

said equipment, comprising the following preliminary steps:

reception of data comprising at least the type and software version of the equipment

(col. 6, line 46) and the identity of the security module (col. 1, lines 50-55), via the

network, by the control server (col. 8, lines 21-25),

analysis and verification by the control server of said data (col. 8, lines 26-28),

generation of a cryptogram (col. 8 ,lines 41-44) from the result of the verification of said

data, and transmission of said cryptogram, via the network and the equipment, to the

security module (col. 8, lines 60-65), said method further comprises steps wherein the

security module analyses the received cryptogram and activates, respectively

deactivates the resources as data or functions used by at least one application installed

in the equipment, said cryptogram comprising the instructions [necessary keys]

conditioning [lock/unlock] the functioning of the application [application to make a call]

according to criteria established by the supplier of said application and/or the operator

and/or the user of the equipment (col. 9, lines 1-8) and the main application being left

active for connection of the equipment to the network (col. 11, lines 1-5).

As per claim 22, Parker teaches the equipment is a mobile equipment of mobile

telephony (see abstract).

As per claim 23, Parker teaches the network is a mobile network of the GSM,

GPRS or UMTS type (col. 1, line 36).

As per claim 24, Parker teaches the security module is a subscriber module of

a SIM card type inserted into the mobile equipment of mobile telephony (col. 1, line 50).

As per claim 25, Parker teaches the identification of the set mobile equipment

/ subscriber module is carried out from the identifier of the mobile equipment and from

the identification number of the subscriber module pertaining to a subscriber to the

mobile network (col. 8, lines 55-65).

As per claim 26, Parker teaches the criteria [locked/unlocked] defines the usage

limits [activate / deactivate] of an application according to the risk [key exposure]

associated to said application and to the type and the software version of the mobile

equipment that the operator and/or the application supplier and/or the user of the mobile

equipment want to take in account (col. 9, lines 2-4). Upon activating a locked phone,

Parker teaches a phone can be relocked if a key is compromised and needs to be changed. This process takes into account the identity information inside the phone, including the SIM.

As per claim 27, Parker teaches the activation method is carried out after each connection of the mobile equipment to the network (col. 9, line 11). A check is made at turn on to see if the device is locked. It does however bypass the rest of the activation method and goes to the authentication part of the method if the check is satisfied.

As per claim 28, Parker teaches the activation method is carried out after each of updating the software version of the mobile equipment (col. 9, lines 1-5). Anytime the phone receives a new subscriber identification code it is necessary for the handset to re-register with the base station.

As per claim 29, Parker teaches the activation method is carried out after each activation or deactivation of an application on the mobile equipment (col. 9, lines 1-5).

As per claim 30, Parker teaches the activation method is carried out after each updating of the software version of the subscriber module (col. 9, lines 1-5). Anytime the phone receives a new subscriber identification code it is necessary for the handset to re-register with the base station.

As per claim 31, Parker teaches the activation method is out after each updating of the resources on the subscriber module (col. 9, lines 1-5). Anytime the phone receives a new subscriber identification code it is necessary for the handset to re-register with the base station.

As per claim 32, Parker teaches the activation method is carried out periodically at a rate [each startup] given by the control server (col. 9, line 11).

As per claim 33, Parker teaches the activation method is carried out after each initialization of an application on the mobile application (col. 9, lines 1-5). Activation is synonymous with initialization.

As per claim 34, Parker teaches the subscriber module, prior to the execution of the instructions given by the cryptogram, compares the identifier of the mobile equipment with that previously received (Fig. 5, 172).

As per claim 35, Parker teaches the control server, prior to the transmission of the cryptogram, compares the identifier of the mobile equipment with that previously received and only initiates the verification operation if the identifier has changed (col. 8, lines 55-65). This activation is only done a second time if the SIM or any of its values change. Otherwise, the server already knows the phone is ok and does not send it a new IMSI.

As per claim 36, Parker teaches the cryptogram is made up of a message encrypted by the control server with the aid of an asymmetrical or symmetrical encryption key from a data set containing, among other data, the identifier of the mobile equipment, the identification number of the subscriber module, the resource references of the subscriber module and a predictable variable (col. 8, lines 50-59).

As per claim 38, Parker teaches the equipment is a Pay-TV decoder or a computer to which the security module is connected (col. 12, lines 60-65).

As per claim 39, Parker teaches a security module [SIM] comprising resources intended to be locally accessed by at least one application [phone calling software] installed in an equipment [cell phone] connected to a network, said equipment comprising reading and data transmission means comprising at least the identifier of the equipment and the identifier of the security module (col. 8, lines 21-25), said module further comprises means for reception (col. 8 ,lines 60-65), analysis and execution of instructions contained in a cryptogram (col. 9, lines 1-15), said instructions conditioning the functioning [unlocking/locking] of the application according to criteria predetermined by the supplier of said application and/or the operator and/or the user of the equipment (col. 9, lines 1-8) and the means for selectively activating or deactivating security module resources being configured for maintaining the main application active for connection of the equipment to the network (col. 11, lines 1-5).

As per claim 40, Parker teaches a subscriber module of the "SIM card" type connected to a mobile equipment (col. 1, lines 50-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker in view of USP Application Publication 2003/0041125 to Salomon.

As per claim 37, Parker is silent in disclosing the subscriber module transmits to the control server, via the mobile equipment and the mobile network, a confirmation message when the subscriber module has received the cryptogram, said message confirming the correct reception and the adequate processing of the cryptogram by the subscriber module. Salomon teaches the subscriber module transmits to the control server, via the mobile equipment and the mobile network, a confirmation message when the subscriber module has received the packet, said message confirming the correct reception and the adequate processing of the cryptogram by the subscriber module (0056). Receipt messages or as they are usually to in the art, acknowledgement messages (ACK), are notoriously well known in the art of computer communication. ACK are used to ensure proper and reliable communication between two devices. The ACK serves to let the sender know the packet was received by the recipient so the sender can timely conclude the communication. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the acknowledgement messages of Salomon in the method of activation of Parker so server can know that the phone received the data without error. Any type of computer communication method can benefit from ACK messages.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/William R. Korzuch/
Supervisory Patent Examiner, Art Unit 2431